

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

January 15, 2004

IN RE:

**BELLSOUTH TELECOMMUNICATIONS, INC.
COMPUTATION OF PRICE REGULATION
INDEX AND SERVICE PRICE INDEX**

**DOCKET NO.
03-00384**

**ORDER APPROVING PRICE REGULATION FILING
BY BELLSOUTH TELECOMMUNICATIONS, INC.**

This matter came before Chairman Deborah Taylor Tate, Director Pat Miller and Director Ron Jones of the Tennessee Regulatory Authority (the "Authority"), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on July 21, 2003, for consideration of BellSouth Telecommunications, Inc.'s ("BellSouth") Computation of its 2002 Price Regulation Index and Service Price Index filing.

Background

BellSouth filed its original application to operate under price regulation pursuant to Tenn. Code Ann. § 65-5-209 with the Tennessee Public Service Commission (the "TPSC") on June 20, 1995.¹ The TPSC's January 23, 1996 Order implementing BellSouth's price regulation plan required BellSouth to reduce its rates by approximately 56.3 million dollars. BellSouth filed a petition for review of the TPSC's Order, and through decisions and orders issued on October 1, 1997 and November 19, 1997, the Tennessee Court of Appeals vacated the TPSC's January 23, 1996 Order. Thereafter, on October 27, 1998, the Authority deliberated on BellSouth's application for a price regulation plan and approved BellSouth's price regulation application with an effective date of

¹ BellSouth's application was filed in TPSC Docket No. 95-02614, which after remand from the Court of Appeals became TRA Docket No. 95-02614.

October 1, 1995. The Authority's *Order Approving BellSouth Telecommunications, Inc.'s Application for Price Regulation Plan*, entered on December 9, 1998, set forth the following provisions for BellSouth's price regulation plan:

Increases in BellSouth's initial rates for Basic Local Exchange Telephone Service shall not occur until December 1, 2002, consistent with Tenn. Code Ann. § 65-5-209(f).

Increases in BellSouth's rates for Call Waiting shall not occur until December 1, 2002, consistent with Tenn. Code Ann. § 65-5-209(h).

Annual adjustments in BellSouth's basic and nonbasic rates pursuant to Tenn. Code Ann. § 65-5-209(e) shall be calculated from December 1, 1998, and the calculation of the Service Price Index for basic and nonbasic services shall be based upon service volumes for the month of December for the year of the annual filing and upon service prices in effect on December 1, 1998 or as reset by the Authority under Tenn. Code Ann. § 65-5-207.

Annual adjustments in BellSouth rates for Interconnection Services pursuant to Tenn. Code Ann. § 65-5-209(g) shall be calculated from December 1, 1998.²

The Authority's December 9, 1998 Order also provided that BellSouth's price regulation plan would be subject to the price regulation methodology as stipulated in *In Re: United Telephone Southeast, Inc. Tariff No. 96-201 to Reflect Annual Price Cap Adjustment*, Docket No. 96-01423.³

The Consumer Advocate Division of the Office of Attorney General filed a Petition for Review in the Tennessee Court of Appeals on February 9, 1999, seeking a reversal of the Authority's December 9, 1998 Order. The Court of Appeals affirmed the Authority's Order in an opinion issued on January 10, 2000.

On June 26, 2000, BellSouth submitted to the Authority its first filing pursuant to its price regulation plan, consisting of calculations of its December 1, 1999 Price Regulation Index ("PRI")

² *In Re: Application of BellSouth Telecommunications, Inc. for a Price-Regulation Plan*, Docket No. 95-02614, *Order Approving BellSouth Telecommunications, Inc.'s Application for Price Regulation Plan*, 21 (December 9, 1998).

³ See *In Re: United Telephone-Southeast, Inc. Tariff No. 96-201 to Reflect Annual Price Cap Adjustment*, Docket No. 96-01423, *Order Approving in Part and Denying in Part Tariff No. 96-201* (September 4, 1997).

and Service Price Index ("SPI") pursuant to Tenn. Code Ann. § 65-5-209. On December 4, 2000, BellSouth filed a revised computation of the December 1, 1999 PRI and SPI, wherein BellSouth reclassified and modified its categorization of basic and non-basic services to address the Authority's concerns and to reflect prior decisions of the Authority.⁴

At the January 9, 2001 Authority Conference, after review of the revised filing and the supporting information, the Authority determined that BellSouth's PRI and SPI for non-basic services had been calculated in accordance with Tenn. Code Ann. § 65-5-209 and the methodology approved by the Authority, including all orders issued concerning United Telephone-Southeast's prior price regulation filings.⁵ Moreover, the Authority found that BellSouth's current prices for non-basic services were less than the maximum prices allowed under Tenn. Code Ann. § 65-5-209, thereby creating headroom within which future rate increases might be made. According to the PRI and SPI, BellSouth had approximately 18.2 million dollars in available headroom for rates in its non-basic services category.⁶ Based on these findings, the Authority approved the non-basic SPI and PRI calculations in BellSouth's December 4, 2000 price regulation filing. The Authority denied approval of the SPI and PRI indexes for basic services, having found that such services are subject to the four-year price freeze set forth in Tenn. Code Ann. § 65-5-209(f) and the indexes for those services are to be established at the end of the four (4) year price freeze.⁷

⁴ "Basic local exchange telephone services" and "non-basic services" are defined in Tenn. Code Ann. § 65-5-208(a). Tenn. Code Ann. § 65-5-209(f) provides that "the initial basic local exchange telephone service rates of an incumbent local exchange telephone company shall not increase for a period of four (4) years from the date the incumbent local exchange telephone company becomes subject to such regulation." This initial four-year freeze does not apply to rates for non-basic services, which may be increased as long as such increase complies with the formula set forth in Tenn. Code Ann. § 65-5-208(e).

⁵ See *Consumer Advocate Division v. Tennessee Regulatory Authority*, No. M1999-01699-COA-R12-CV, 2000 WL 1514324 (Tenn. Ct. App. Oct. 12, 2000) (discussing price regulation methodology).

⁶ Headroom represents the difference between actual aggregate revenues and aggregate revenues allowable under the formula set forth in Tenn. Code Ann. § 65-5-209(e). In this instance, headroom had been created primarily due to access reductions which had been partially offset by rate increases to Complete Choice Service and various custom calling services. BellSouth did not propose to change any basic or non-basic rates in this filing.

⁷ See *In Re: BellSouth Telecommunications, Inc. Computation of Price Regulation Index and Service Price Index*, Docket No. 00-00545, *Order Approving Price Regulation Filing by BellSouth Telecommunications, Inc.* (December 18, 2001).

BellSouth's June 6, 2003 Price Regulation Filing

BellSouth filed its 2002 Price Regulation Plan, which is the subject of this docket, on June 6, 2003. This filing contains BellSouth's calculations of its 2002 PRI and SPI pursuant to Tenn. Code Ann. § 65-5-209 and the price cap methodology approved by this Authority.


Findings and Conclusions

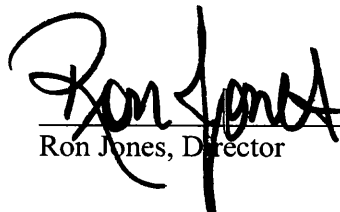
After analyzing the overall price cap filing, the Authority finds that BellSouth's PRI and SPI indices for basic and non-basic services have been calculated in accordance with Tenn. Code Ann. § 65-5-209 and the methodology approved by the Authority, including all orders issued concerning BellSouth's price cap filings in prior years. Upon careful review of BellSouth's computation of its Price Regulation Index and Service Price Index filing for basic and non-basic services, and of the entire record in this matter, the panel voted unanimously to approve BellSouth's filing.

IT IS THEREFORE ORDERED THAT:

BellSouth's Computation of its 2002 Price Regulation Index and Service Price Index for basic and non-basic services, filed on June 6, 2003 is approved.


Deborah Taylor Tate, Chairman


Pat Miller, Director


Ron Jones, Director